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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,917	06/29/2001	Hans-Joachim Fuchs	70231	9518

7590 02/21/2003

McGLEW AND TUTTLE, P.C.
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-0827

EXAMINER

SHAHER, RICKY D

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,917

Applicant(s)

FUCHS ET AL

Examiner

R.D. SMATER

Group Art Unit

2872

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 11/26/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 6/29/01 is/are objected to by the Examiner
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Applicant's election of species "A", depicted by Fig. 1, in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant asserts that claims 1-15 read on the elected species. The examiner disagrees and states that it would appear that none of the claims (claims 1-15) read on the elected species, depicted by Fig. 1, due to the fact that claim 1 clearly recites an outside mirror comprising mirror foot, a mirror carrier, a spring element, a first detent element and a second detent element and the written description of Fig. 1 fails to disclose the presence of any spring element and Fig. 1 omits the illustration of any spring element in connection with first and second detent elements.

Thus, applicant either erred in the response to the restriction requirement or the specification, as originally filed, fails to provide an enabling disclosure as to how to make and/or the use the invention. Accordingly, the following rejections are deem appropriate.

2. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification, as originally filed, fails to provide an enabling disclosure as to how to make and/or use a spring element in connection with the first and second detent elements of Fig. 1. The specification fails to teach one of ordinary skill in the art the correlation between the spring

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element and the first and second detent elements such a way as to enable one skilled in the art to make and/or use the invention without undue experimentation or speculation.

The specification, as originally filed, fails to provide an enabling disclosure as to how to make and/or use a second detent element or second detent contour being latchable or unlatchable to the mirror carrier. The specification fails to teach one of ordinary skill in the art the correlation between the second detent element or second detent contour and the mirror carrier such a way as to enable one skilled in the art to make and/or use the invention without undue experimentation or speculation.

The specification, as originally filed, fails to provide an enabling disclosure as to how to make and/or use a spring element in connection with a preloaded spring element. The specification fails to teach one of ordinary skill in the art the correlation between the spring element and the preloaded spring element such a way as to enable one skilled in the art to make and/or use the invention without undue experimentation or speculation.

The specification, as originally filed, fails to provide an enabling disclosure as to how to make and/or use a spring element in connection with a first detent element spring element. The specification fails to teach one of ordinary skill in the art the correlation between the spring element and the first detent element spring element such a way as to enable one skilled in the art to make and/or use the invention without undue experimentation or speculation.

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3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague, indefinite and fails to particularly point out and distinctly claim the correlation or nexus between the spring element and the first detent element, the first detent contour, the second detent element and the second detent contour. Thus, the metes and bounds of the claim can not be readily determined.

In claim 2, 14 and 15, the use of the language "and/or" is vague and indefinite. The above claim language must be recited in the alternative only.

Claim 3 is vague, indefinite and fails to particularly point out and distinctly claim the correlation or nexus between the preloaded spring element and the first detent element, the first detent contour, the second detent element, the second detent contour and the spring element. Thus, the metes and bounds of the claim can not be readily determined.

Claim 4 is vague, indefinite and fails to particularly point out and distinctly claim the correlation or nexus between the first detent element spring element and the first detent element, the first detent contour, the second detent element, the second detent contour and the spring element. Thus, the metes and bounds of the claim can not be readily determined.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the spring element of Fig. 1, the first detent

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element, the first detent contour, a second detent element, the second detent contour, the preloaded spring element and a first detent element spring element.

5. The drawings are objected to because Fig. 1, fails to illustrate a spring element, preloaded spring element and a first detent element spring element. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

RDS

February 5, 2003

R.D. Shafer
RICHARD D. SHAFER
PATENT ATTORNEY
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